

Notice of Allowability

Application No.

09/945,472

Examiner

Catherine S. Williams

Applicant(s)

PETERSEN, DARYLE LEE

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment dated 8/30/04.
2. ☒ The allowed claim(s) is/are 2,3,10-12,18-21 and 23-26.
3. ☒ The drawings filed on 25 February 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 3/4/04; 8/30/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with William Allen on 12/10/04.

The application has been amended as follows:

In the claims:

In claims 2 and 23 in the last line of the claim and before the period ".", --wherein the catheter is configured to allow the therapeutic agent to fill the lumen until a predetermined luminal pressure exceeding the external pressure of the selected site is reached and the microporous membrane section is configured to deliver the therapeutic agent at the predetermined luminal pressure--.

In claims 11 in the last line of the claim and before the period ".", --wherein the catheter is configured to allow the therapeutic agent to fill the lumen until a predetermined luminal pressure exceeding the external pressure of the selected sites is reached and the diffusion sections are configured to deliver the therapeutic agent at the predetermined luminal pressure--.

In claims 18 in the last line of the claim and before the period ".", --wherein the catheters are configured to allow the therapeutic agent to fill a lumen of each catheter until a predetermined luminal pressure exceeding the external pressure of the selected site is reached

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and the microporous membrane section is configured to deliver the therapeutic agent at the predetermined lumenal pressure--.

Allowable Subject Matter

Claims 2-3,10-12,18-21 and 23-26 are allowed.

The following is an examiner's statement of reasons for allowance:

The prior art, specifically GB 1567122 and USPN 6,030,358, fail to teach alone or in combination a catheter that includes a tubular section having a lumen and solid sections and a microporous membrane section (or diffusion sections), a solid non-porous catheter tip attached to the distal end of the catheter and inserted into the lumen, the tubular section having a substantially uniform inner and outer diameter along the length thereof and in combination with the catheter being configured to allow the therapeutic agent to fill the lumen until a predetermined lumenal pressure exceeding the external pressure of the selected site(s) is reached and the microporous membrane section is (diffusion sections are) configured to deliver the therapeutic agent at the predetermined lumenal pressure.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine S. Williams whose telephone number is 571-272-4970. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas D. Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Catherine S. Williams *CSW*.
December 10, 2004


NICHOLAS D. LUCCHESI
SUPERVISOR
TECHNOLOGY CENTER 3763